

### **REMARKS/ARGUMENTS**

The Examiner is thanked for the review of the application.

In the specification, the paragraphs at page 1 beginning at lines 12, 17, and page 2 beginning at lines 3 and 8, have been amended to include the serial numbers of the four co-pending and concurrently filed applications.

In the Office Action dated July 12, 2005 the Examiner objected to the abstract because it is not in proper format. In the abstract, the paragraphs at page 125 beginning at line 6 have been amended by combining the two paragraphs into one paragraph.

Claims 1-4 remain in this application. Claims 1-3 have been amended. New claims 5, 6 have been added. No new matter has been added.

In the Office Action dated July 12, 2005, the Examiner has rejected Claims 1 and 2 under 35 U.S.C. 101 stating that "the claimed invention is directed to non-statutory matter. The basis of this rejection is set forth in a two-prong test of: (1) whether the invention is within the technological arts; and (2) whether the invention produces a useful, concrete, and tangible result. For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the 'progress of science and the useful arts' (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. In the present case, receiving sales data, receiving cost data, and estimating cost per unit of product does not apply, involve, use or advance the technological arts since all of the steps can be performed in the mind of the user or by use of pencil and paper and no specific technology (e.g. computer, processor) is expressly recited in the body of the claims. In re Toma (CCPA 197

USPQ 852 (1978)). Although the recited method produces useful, concrete, and tangible result, since the claimed invention, as a whole is not within the technological arts as explained above, claims 1 and 2 are deemed to be directed to non-statutory matter.”

Method Claims 1, 2 have been amended to recite “computer-implemented method”. Applicants believe that both Claims 1, 2 are now compliant with 35 U.S.C. 101 and hence in allowable form.

Claim 3 has been rejected under 35 U.S.C. 101. The Examiner stated that “the term ‘[impute]’ in claim 3 is confusing because the accepted meaning is ‘to lay the responsibility or blame for often falsely or unjustly, and to credit to a person or a cause.’ Mirriam-Webster’s collegiate dictionary – 10 Ed. The term is indefinite because the specification does not clearly redefine the term.”

The Examiner has also rejected Claims 3 and 4 under 35 U.S.C. 112, first paragraph stating that these claims are “failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specific phrases used but not defined are, generating ‘imputed’ variables; and a financial engine for receiving ‘imputed’ variables from the...’. There does not appear to be a step in the claims or the specification on how the ‘imputed’ is defined such that a person having ordinary skill in the art at the time of the invention could have ‘imputed’ variables.”

Support for pending Claims 3, 4 and new Claims 5, 6 for **imputing econometric variables** can be found in Applicants’ specification as filed. For example, beginning on page 48, line 17, is a detailed description of “imputed seasonality variable generation”, beginning on page 52, line 4 is a detailed description of “imputed promotional variable”, and beginning on page 54, line 8 is a detailed description of “imputed cross-elasticity variable”.

Applicants refer to the Information Disclosure Statement filed herewith the present Amendment, which includes a chapter discussion imputation from a textbook entitled “Bayesian Data Analysis” by Gelman, Carlin, Stern and Rubin, and also includes Webster’s definitions for “impute” and “infer”.

Referring to Chapter 17 “Models for missing data” of the referenced textbook, Section 17.7 titled “Inference using multiple imputation” on page 453 is a detailed discussion on “Imputation”, in which “the modeling approach to obtaining posterior inference when some data values are missing can be carried out separately by each user... A standard practice in complex surveys is to replace each of the missing values by an imputed value ... Assuming the imputation model is reasonable, the results from an analysis of the imputed dataset are likely to provide more accurate estimates than would be obtained by discarding data with missing values.” (Emphasis added).

Applicants would like to draw the Examiner’s attention to Webster’s alternate definition of “impute” which is “to estimate”. Applicants also would like to draw the Examiner’s attention to Webster’s definition of “infer” which is to “conclude or decide from something known or assumed; derive by reasoning; draw as a conclusion”.

In view of Gelman’s Chapter 17 entitled “Inference using multiple imputation” and Webster’s definitions of “impute” and “infer”, Applicants respectfully submit that “impute”, as illustrated by the Gelman Chapter on “imputation” cited above, which essentially is the process of using “inference when some data values are missing” thereby “replacing missing values by an imputed value” is well-known and accepted in the Mathematical arts. Hence, Claim 3 is compliant with 35 U.S.C. 101 with respect to “definitiveness”, and both Claims 3, 4 are enabling as prescribed by 35 U.S.C. 112, and are now in allowable form.

In sum, base Claims 1, 3 have been amended and are now believed to be allowable. Dependent claims 2, 4 have been amended and are now believed to be allowable. Dependent claims 2, 4 which depend therefrom are also believed to be allowable as being dependent from their respective patentable parent claims 1, 3 for at least the same reasons. New Claims 5, 6

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which depend on Claims 1, 3, respectively, have been added and are also believed to be allowable. Applicants believe that all pending Claims 1-6 are now allowable over the cited art and are also in allowable form and respectfully request a Notice of Allowance for this application from the Examiner.

Applicants believe that all pending claims are allowable and respectfully request a Notice of Allowance for this application from the Examiner. Although applicants believe that there are no fees due in association with the filing of this response, the commissioner is authorized to charge any fees that may be necessary to facilitate the filing of this response to our Deposit Account No. 50-2766 (Order No. DEM1P004). Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at telephone number 925-570-8198.

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Respectfully submitted,



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